

Application No: 09/219,288
Filing Date: December 22, 1998
Group Art Unit: 1743
Examiner: L. Alexander
Atty Docket No: 101324-54

-3-

REMARKS

Claims 25 through 44 are pending. Claim 25 has been amended in accordance with discussions during a personal interview with the Examiner on September 19, 2001. Examiner Alexander is thanked for the courtesy of the interview and for his helpful suggestions.

A Request for a three month extension of time is respectfully requested. The petition for the extension and the appropriate fee are submitted herewith.

Rejection of Claims 25-44 under 35 U.S.C. §102(b)

Claims 25-44 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,225,679, issued to Clarke et al. (hereinafter "Clarke et al."). Applicants respectfully traverse the rejection for the following reasons which were discussed during the interview.

Applicants' invention is drawn to an apparatus for assisting in the *identification of a marked liquid*. The apparatus includes a vessel for receiving a liquid, a detector and, importantly, a comparison element. The liquid in the vessel includes at least a first marker and a second marker, wherein each of the markers is miscible with the liquid and wherein each of the markers has a *unique absorption spectrum* that is differentiable from the absorption spectrum of the liquid and any other marker in the liquid. The *concentrations of the markers are preselected* to identify the liquid, such that *a set of concentration patterns is predefined*. The detector identifies the first marker and the second marker by their respective absorption spectra and *generates signals indicative of concentrations of the first and second marker* in the

-4-

liquid. Lastly, the apparatus includes a comparison element that compares the signals from the detector (the concentrations of the first and second markers) with a *look up table* of the *predetermined concentration patterns* to identify the liquid.

The Office Action states that the Clarke *et al.* reference teaches an apparatus for the identification of marked liquids having a vessel for receiving the liquid, a detector and a comparison means, and notes that a recitation of intended use alone is insufficient to confer patentability to the instant apparatus claims.

During the interview it was noted that the cited reference does not teach or suggest the use of *any* first or second markers. Although the markers are not part of the apparatus, they are integrally associated with the detector and comparison elements of the invention. Clarke *et al.* do not teach or suggest a comparison element that compares the unique absorption spectra of the first and second markers with a *look up table*. Clarke *et al.* do not teach or suggest that the first and second markers of the *look up table* could be compared to *predetermined spectra (the concentration patterns)* so as to assist in identification of the liquid. Furthermore, Clarke *et al.* do not provide any motivation or an expectation of success to one of ordinary skill in the art to provide first and second markers in a solution that are compared to a look up table to uniquely identify marked liquids.

The above amendments were suggested by Examiner Alexander during the interview to ensure that the claims do not merely recite intended use. The recitation of the *a look up table of predetermined marker concentration patterns* is believed to overcome the basis for rejection cited in the Office Action.

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-5-

For all of the reasons above, Independent claim 25 meets the statutory requirements of 35 U.S.C. §102(b) and §103 and is believed to be in condition for allowance. Consequently, claims 26-44, which are directly or indirectly dependent from independent claim 25, also meet the statutory requirements of 35 U.S.C. §102(b) and §103.

Request for Copies of non-United States Patent References

At the Examiner's request, copies of five non-United States Patent references, cited in the IDS filed on July 22, 2000, are being provided herewith. Additionally, a Supplemental Information Disclosure Statement and PTO-1449 form are also filed herewith to add three additional references which were cited in the parent application but inadvertently omitted in this continuation. The fee under 37 C.F.R 1.17(p) is also enclosed. Applicants respectfully request that all of the enclosed non-United States Patent references, be reviewed by the Examiner and made of record.

Application No: 09/219,288
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-6-

Conclusion

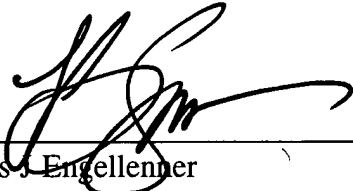
It is submitted that the pending rejection has been overcome by the amendments to claim 25 and the arguments set forth above and that the claims are in conditions for allowance. Reconsideration of the rejections and allowance of all presently pending claims is respectfully requested.

If a telephone conversation with Applicants' attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 439-2810.

Respectfully submitted,

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